

More Flexibility for PPP Loans Under New Legislation

Key Points

- New legislation allows longer 24-week period for payroll costs that will be forgiven under Paycheck Protection Program loans
- Maximum forgiveness of loan can be achieved if 60% of the proceeds are used on payroll costs
- New broader safe harbor to avoid FTE-based reduction in forgiveness amount

New legislation signed into effect on June 5, 2020, received bipartisan support to address complaints about the current Paycheck Protection Program ("PPP") loans for small business borrowers. The changes to the PPP program are intended to make the program easier to use for those small businesses who have already accessed the program and those who still wish to apply. Earlier Hanson Bridgett published [CARES Act: Paycheck Protection Loans and Eligibility for Loan Forgiveness](#) and an [update to that article](#). The following are key changes made to that information by the new legislation enacted on June 5, 2020:

- current borrowers may choose to use a new 24-week period rather than an 8-week period to spend PPP loan funds that may be forgiven; new borrowers must use the 24-week period
- in order to obtain maximum loan forgiveness, payroll costs must represent 60% of the use of the funds, rather than the 75% under current requirements
- the time in which to restore wage reductions and FTE (40 hours per week) levels in order to obtain maximum forgiveness is extended from June 30, 2020 to December 31, 2020
- there are two new ways in which to avoid reduction in the forgiveness amount based on loss of FTEs: documented (1) inability to find qualified employees to replace those who were laid off or terminated and (2) inability to restore business operations to February 15, 2020 levels due to COVID-19 related operating restrictions
- minimum loan maturity for any part of the loan not forgiven is extended to 5 years for new loans (legislation also does not prohibit lenders from making this change to existing loan terms)

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- payments on amounts not forgiven must begin when the forgiven amount is remitted to the lender or no later than 10 months following December 31, 2020
- borrowers may defer payment of the employer portion of payroll taxes until 2021

It is anticipated that the SBA and Treasury will issue additional guidance on the new rules soon.

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